

House Bill 973

By: Representatives Geisinger of the 48th, Cooper of the 41st, Willard of the 49th, Scott of the 153rd, Porter of the 143rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service, so as to provide a short title; to provide for the imposition and collection of a fee on all telephone and wireless service subscribers for the funding of uninsured trauma services at certain hospitals and medical facilities in this state; to provide for the division and allocation of such funds; to provide sanctions for failure to comply with distribution requirements; to provide for certain credits; to provide for other related matters; to provide a contingent effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Georgia Trauma Hospital Support Act of 2008."

SECTION 2.

Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service, is amended by adding a new Part 5 to read as follows:

"Part 5

46-5-139.

(a) As used in this part, the term:

(1) 'Disposable wireless subscriber' means a person or entity to whom wireless service is provided through the use of a disposable wireless telecommunications device and prepaid credit for specified amounts of wireless service.

(2) 'Disposable wireless telecommunications device' means a device used to access wireless service which contains or is credited with a specified quantity of prepaid credit

1 toward wireless service charges which may be discarded after the prepaid credit is
2 exhausted or expires or may be refilled or recharged with additional prepaid credit.

3 (3) 'Exchange access facility' means the access from a particular telephone subscriber's
4 premises to the telephone system of a service supplier. Exchange access facilities include
5 service supplier provided access lines, PBX trunks, and Centrex network access registers,
6 all as defined by tariffs of the telephone companies as approved by the Public Service
7 Commission. Exchange access facilities do not include service supplier owned and
8 operated telephone pay station lines, Wide Area Telecommunications Services (WATS),
9 Foreign Exchange (FX), or incoming only lines.

10 (4) 'Place of primary use' means the street address representative of where the customer's
11 use of the mobile telecommunications service primarily occurs, which must be the
12 residential street address or the primary business street address of the customer.

13 (5) 'Service supplier' means a person or entity who provides local exchange telephone
14 service or wireless service to a telephone subscriber.

15 (6) 'Telephone subscriber' means a person or entity to whom local exchange telephone
16 service or wireless service, either residential or commercial, is provided and in return for
17 which the person or entity is billed on a monthly basis. When the same person, business,
18 or organization has several telephone access lines, each exchange access facility shall
19 constitute a separate subscription. When the same person, business, or organization has
20 several wireless telephones, each wireless telecommunications connection shall constitute
21 a separate connection.

22 (7) 'Wireless service' means 'commercial mobile service' as defined under Section
23 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.),
24 regulations of the Federal Communications Commission, and the Omnibus Budget
25 Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected
26 voice service which is provided over networks which utilize intelligent switching
27 capability and offer seamless handoff to customers. The term does not include one-way
28 signaling service, data transmission service, nonlocal radio access line service, or a
29 private telecommunications service.

30 (8) 'Wireless service supplier' means a provider of wireless service.

31 (9) 'Wireless telecommunications connection' means any mobile station for wireless
32 service that connects a provider of wireless service to a provider of local exchange
33 telephone service.

34 (b)(1) For the provision of uninsured trauma services in this state, each subscriber of an
35 exchange access facility shall be billed \$1.00 per month per exchange access facility
36 provided to the telephone subscriber. All exchange access facilities billed to federal,
37 state, or local governments shall be exempt from such charge. Each service supplier

1 shall, on behalf of the state, collect the trauma service charge from those telephone
2 subscribers to whom it provides exchange telephone service in the area served by the
3 service supplier. As part of its normal billing process, the service supplier shall collect
4 the trauma charge for each month an exchange access facility is in service, and it shall
5 list the trauma charge as a separate entry on each bill. If a service supplier receives a
6 partial payment for a bill from a telephone subscriber, the service supplier shall first
7 apply the payment against the amount the telephone subscriber owes the service supplier.

8 (2)(A) The subscriber of a wireless telecommunications connection whose billing
9 address is within this state shall be billed for the monthly trauma charge for that
10 connection by the wireless service supplier. Such wireless trauma charge shall be \$1.00
11 per month per wireless telecommunications connection provided to the telephone
12 subscriber.

13 (B) All wireless telecommunications connections billed to federal, state, or local
14 governments shall be exempt from the trauma charge. Each wireless service supplier
15 shall, on behalf of the state, collect the wireless trauma charge from those telephone
16 subscribers whose place of primary use is within this state. As part of its normal billing
17 process, the wireless service supplier shall collect the trauma charge for each month a
18 wireless telecommunications connection is in service, and it shall list the wireless
19 trauma charge as a separate entry on each bill. If a wireless service supplier receives
20 partial payment for a bill from a telephone subscriber, the wireless service supplier shall
21 first apply the payment against the amount the telephone subscriber owes the wireless
22 service supplier.

23 (3) Each service supplier that sells disposable wireless telecommunications devices in
24 this state or that sells prepaid credits to refill or recharge such disposable wireless
25 telecommunications devices in this state, whether directly or through other retailers, shall
26 pay a wireless trauma charge for each such disposable wireless telecommunications
27 device sold in this state and each such block of prepaid credit sold in this state equal to
28 10 percent of the retail price of such disposable wireless telecommunications device or
29 prepaid credit to refill or recharge such disposable wireless telecommunications device.

30 (c) Every telephone subscriber in this state shall be liable for the trauma and the wireless
31 trauma charge imposed under this Code section until such charge has been paid to the
32 service supplier. A service supplier shall have no obligation to take any legal action to
33 enforce the collection of the trauma or wireless trauma charge. The service supplier shall
34 provide the commissioner of revenue within 60 days the name and address of each
35 subscriber who has refused to pay the trauma or wireless trauma charge after such charge
36 has become due. A collection action may be initiated by the commissioner for such charge,

1 and reasonable costs and attorneys' fees associated with that collection action may be
2 awarded for collecting the trauma or wireless trauma charge.

3 (d)(1) Each service supplier that collects trauma or wireless trauma charges on behalf of
4 the state is entitled to retain as an administrative fee an amount equal to 3 percent of the
5 gross trauma or wireless trauma charge receipts remitted as provided in this Code section;
6 provided, however, that such amount shall not exceed 3¢ for every dollar so remitted.
7 The remaining amount shall be due quarterly as provided in this Code section and shall
8 be remitted no later than 60 days after the close of a calendar quarter.

9 (2) The state auditor may on an annual basis, and at his or her expense, audit or cause to
10 be audited the books and records of service suppliers with respect to the collection and
11 remittance of trauma and wireless trauma charges.

12 (e) The service supplier shall maintain records of the amount of the trauma and wireless
13 trauma charges collected for a period of at least three years from the date of collection.

14 (f) Each service supplier that collects trauma or wireless trauma charges on behalf of the
15 state shall remit such charges, less the administrative fee allowed by this Code section, to
16 the state treasury no later than 60 days after the close of each calendar quarter.

17 (g)(1) As soon as practicable after the end of each fiscal year, but not more than six
18 months after the close of the fiscal year, the Office of Treasury and Fiscal Services shall
19 report the amount of funds received pursuant to this Code section to the Governor, the
20 General Assembly, and the Office of Planning and Budget. An amount equal to such
21 proceeds received from such charges in any fiscal year shall be appropriated during the
22 following fiscal year to the Office of EMS/Trauma of the Department of Human
23 Resources. These funds shall be used exclusively for the purpose of funding uninsured
24 trauma services at all public and private hospitals and medical facilities maintaining
25 trauma centers in this state as designated by the Office of EMS/Trauma pursuant to the
26 guidelines of the American College of Surgeons.

27 (2) The Office of EMS/Trauma shall obtain from each public and private hospital or
28 medical facility for the preceding calendar year a report of all trauma services provided
29 to uninsured patients. Using the fee schedule created by the State Board of Workers'
30 Compensation pursuant to Code Section 34-9-205, the Office of EMS/Trauma shall
31 assign an amount of reimbursement for each such patient.

32 (3) If the funds appropriated by the General Assembly pursuant to paragraph (1) of this
33 subsection are sufficient to cover all such charges, the Office of EMS/Trauma shall
34 distribute such reimbursement to each public and private hospital or medical facility from
35 whom a report of trauma services was submitted. If, after distributing the reimbursement
36 as provided in this paragraph, there are funds remaining, the Office of EMS/Trauma shall

1 retain such funds and add such funds into the appropriations for the following fiscal year
2 for uninsured trauma services reimbursement.

3 (4) If the funds appropriated by the General Assembly are insufficient to provide the full
4 amount of the reimbursement calculated in accordance with this subsection, then the
5 Office of EMS/Trauma shall distribute the funds by paying a fraction of each hospital or
6 medical facility's reimbursement. The fraction to be applied to determine the amount of
7 the reimbursement to be paid shall be calculated by dividing the total amount of the funds
8 appropriated by the total amount of reimbursement calculated in accordance with this
9 subsection.

10 (5) The failure to submit a report as provided in paragraph (2) of this subsection within
11 the time period established by the Office of EMS/Trauma shall be a waiver of any claim
12 by a hospital or medical facility to participate in the reimbursement.

13 (6) The amounts paid pursuant to paragraphs (3) and (4) of this subsection shall be
14 allocated to hospital services, physician services, EMS services, and rehabilitation
15 services in accordance with a percentage formula that shall be adopted by rule or
16 regulation of the Department of Human Resources acting through the Office of
17 EMS/Trauma and may be amended from time to time as necessary to ensure appropriate
18 division of such funds. Such reimbursement amounts shall be distributed by the public
19 or private hospital or medical facility receiving such funds in accordance with the
20 percentage allocation formula and may only be used for reimbursement of the services
21 stated in the allocation. The Department of Human Resources acting through the Office
22 of EMS/Trauma shall adopt regulations to impose penalties on any public or private
23 hospital or medical facility that violates the requirements of this paragraph to distribute
24 funds paid pursuant to paragraphs (3) and (4) of this subsection in accordance with the
25 percentage allocation formula. A hospital or medical facility found to be in violation of
26 this paragraph shall forfeit its share of such funds and shall be subject to an order from
27 the Department of Human Resources to distribute the remaining funds in accordance with
28 the percentage allocation formula and a civil fine not to exceed \$10,000.00. In
29 determining the amount of the civil fine, the Department of Human Resources shall
30 consider the following:

31 (A) Whether the violation was wilful;

32 (B) Whether the violation is a first violation or a repeated violation; and

33 (C) The dollar amount of the violation.

34 The Office of EMS/Trauma shall remit to the general treasury any funds forfeited.

35 (7) A physician, a provider of EMS services, or a provider of rehabilitation services shall
36 have a private right of action against a public or private hospital or medical facility for
37 failure to distribute funds received pursuant to paragraphs (3) and (4) of this subsection

1 in accordance with the percentage allocation formula as provided in paragraph (6) of this
2 subsection and may recover the amount due to the physician or provider under the
3 percentage allocation formula, attorney's fees, and all other costs of collection.

4 (h) Each insured person receiving trauma services at a public or private hospital or medical
5 facility that receives funds under this Code section shall receive a credit of \$12.00 against
6 any copayment or deductible for which such insured person is responsible for each year
7 such person, his or her spouse, or, in the case of a minor child, his or her parent or guardian
8 has paid the monthly trauma charge on a residential exchange access facility or the monthly
9 wireless trauma charge on a wireless telecommunications connection. In the event that the
10 person, his or her spouse, or, in the case of a minor child, his or her parent or guardian has
11 paid the monthly trauma charge for more than one residential exchange access facility or
12 the wireless charge for more than one wireless telecommunications connection or
13 combination of such charges, the credits shall be cumulative. A public or private hospital
14 or medical facility may require such person to submit reasonable proof of such payments
15 prior to granting such credit. This credit shall not apply to fees paid relating to disposable
16 wireless telecommunications devices."

17 SECTION 3.

18 This Act shall become effective on January 1, 2009, provided that a constitutional
19 amendment authorizing the collection and appropriation of trauma charges on telephone
20 subscribers to assist in the funding of uninsured trauma services at public and private
21 hospitals and medical facilities maintaining trauma centers in this state is passed and ratified
22 in the 2008 November general election. Otherwise, this Act shall stand repealed by operation
23 of law on January 1, 2009.

24 SECTION 4.

25 All laws and parts of laws in conflict with this Act are repealed.